

**REMARKS**

Claims 1-31 were pending in the present application. Claims 11, 16-19, 27-28 were withdrawn from consideration. By virtue of this response, claims 8, 10, and 25 have been cancelled, claims 1, 9, 12, 14, and 20-21 have been amended, and no new claims have been added. Accordingly, claims 1-7, 9, 12-15, 20-24, 26, and 29-31 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. In addition, applicant reserves the right to pursue the subject matter of the claims, prior to amendment herein, in a continuing application. No new matter has been added.

Claim 1 has been amended to provide correct antecedent basis. Claims 9, 12, 14, 20, 21 have been amended to correct dependency.

**Rejections under 35 U.S.C. §112, first paragraph**

Claim 7 is rejected under 35 U.S.C §112, first paragraph as failing to comply with the written description requirement.

Applicant respectfully disagrees. In the specification, p. 8, lines 28-29, the “length of treatment time and volume per minute of plasma passing through the plasma chamber may be varied accordingly.” As recited in Claim 7, the plasma of claim 2 is “streamed through or against the surface of the substrate”. Therefore, the percentage of plasma may be measured by volume as supported by the specification.

**Rejections under 35 U.S.C. §102(e)**

Claims 1-2 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Kunz et al. (U.S. Patent No. 6,733,847).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (MPEP §2131.)

Applicant respectfully disagrees. However, to expedite prosecution, claim 1 has been amended to incorporate the limitations of claim 8 and claim 10 wherein claim 1 further

comprises “(d) following step (b) or optional step (c) contacting said surface with a bioactive or biocompatible agent to bind the bioactive or biocompatible agent to the surface via a covalent or non-covalent bond wherein said bioactive or biocompatible agent is selected from the group consisting of an antithrombotic agent, a cell attachment factor, a receptor, a ligand, a growth factor, an antibiotic, and an enzyme” Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(e).

**Rejections under 35 U.S.C. §103(a)**

A. Claims 1-9, 21-26 and 29-31 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ikada et al. (U.S. Patent No. 4,743,258) in view of Yializis et al. (U.S. Patent No. 6,118,218) or Krause et al. (U.S. Patent No. 5,550,257).

B. Claims 1-2, 5, 7, 25-26, and 29-30 (31) are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Gudimenko et al. (U.S. Patent Publication No. 2003/0021996) in view of Yializis et al. (U.S. Patent No. 6,118,218).

C. Claims 7 and 25 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Kunz et al. (U.S. Patent No. 6,733,847).

D. Claims 1-5, 7-10, 12, 20-24, 26, and 29-30 (31) are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Subramanian (U.S. Patent No. 5,643,580) in view of Yializis et al. (U.S. Patent No. 6,118,218).

E. Claims 13-15 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Subramanian (U.S. Patent No. 5,643,580) in view of Yializis et al. (U.S. Patent No. 6,118,218) and further in view of Valentini (U.S. Patent No. 6,428,579) or Clapper (U.S. Patent No. 5,744,515).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

Applicant respectfully disagrees with the above rejections under 35 U.S.C. § 103(a). However, to expedite prosecution, claim 1 has been amended to incorporate the limitations of

claims 8 and 10 wherein claim 1 further comprises “(d) following step (b) or optional step (c) contacting said surface with a bioactive or biocompatible agent to bind the bioactive or biocompatible agent to the surface via a covalent or non-covalent bond wherein said bioactive or biocompatible agent is selected from the group consisting of an antithrombotic agent, a cell attachment factor, a receptor, a ligand, a growth factor, an antibiotic, and an enzyme.” Additionally, claim 1 has been amended to include the limitations of claim 25 wherein the gas or liquid is “selected from the group consisting of air, ammonia, oxygen, all in gaseous form, and water, ammonium hydroxide, and hydrazine, all in liquid form”.

Ikada, Yializis, Guimenko, Kunz, Subramanian, Valentini, and Clapper, alone or in combination, fail to teach contacting a surface with a bioactive or biocompatible agent as disclosed in claim 1 as currently amended. Further, Ikada, Yializis, Guimenko, Kunz, Subramanian, Valentini, and Clapper, alone or in combination, fail to teach the exposing the surface the gas or liquid as disclosed in claim 1 as currently amended.

Accordingly, Applicant contends that in light of the remarks above, independent claim 1 and any claim ultimately dependent therefrom are allowable and respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a).

#### **Double Patenting**

**A.** Claims 1-10, 12, 21-23, 26 and 29-31 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-8 and 11-17 of U.S. Patent No. 6,159,531 (Dang et al.) in view of Yializis et al. (U.S. Patent No. 6,118,218) and further in view of Ikeda et al. (U.S. Patent No. 4,743,258) in claims 3-6.

**B.** Claims 13-15 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-8 and 11-17 of U.S. Patent No. 6,159,531 (Dang et al.) in view of Yializis et al. (U.S. Patent No. 6,118,218), in view of Ikeda et al. (U.S. Patent No. 4,743,258), and further in view of Valentini (U.S. Patent No. 6,428,579) or Clapper (U.S. Patent No. 5,744,545).

Applicant contends that in light of the remarks above, independent claim 1 and any claim ultimately dependent therefrom are allowable and respectfully requests reconsideration and withdrawal of the rejection under the judicially created doctrine of obviousness-type

double patenting. However, Applicant shall submit a terminal disclaimer to expedite the subject application upon indication that the claims are otherwise in condition for allowance.

### CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Docket No. **NFCSNZ01200**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Bagade', is written over a horizontal line.

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